

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MANUEL F. MARQUES,

*Plaintiff,*

vs.

DWIGHT NEVEN, *et al.*

*Defendants.*

2:08-cv-00656-RLH-RJJ

ORDER

This *pro se* prisoner civil rights action comes before the Court for initial review of the fourth amended complaint (#23) under 28 U.S.C. § 1915A.

The prior procedural history, principal allegations, and screening standard are outlined in the most recent screening order (#22). The prior order dismissed the third amended complaint (#21), but, out of an abundance of caution, gave plaintiff “one final opportunity to amend.”

The fourth amended complaint (#23) merely carries forward, without any material change of substance, the deficient allegations of the third amended complaint (#21). The fourth amended complaint, despite the clear directives in the prior screening order, continues to list a defendant in the caption that is immune from suit under the Eleventh Amendment, continues to assert claims that clearly have been dismissed and as to which there can be no recovery, and continues to ignore the Court’s repeated instructions regarding the proper completion of the required civil rights complaint form. Most significantly, however, the fourth amended complaint continues to present only allegations that the prior screening order

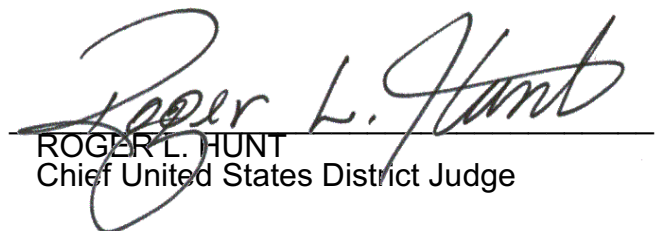
1 described as “conclusory to the extreme.” The pleading does not include any allegations of  
2 actual fact, rather than formulaic recitals of the elements of a cause of action, that would  
3 support an inference that any defendant is liable. Plaintiff’s conclusory allegation in the  
4 current pleading – again in the list of defendants rather than in the body of the pleading – that  
5 defendant Neven “allowed his staff to charge plaintiff with false charges” clearly does not state  
6 a claim upon which relief may be granted, as Neven may not be held liable solely by virtue  
7 of his supervisory position. Similarly, conclusory allegations only that plaintiff was found guilty  
8 of a disciplinary violation “without any evidence or probable cause” or “just based on opinion  
9 and assumption” fail to state a claim upon which relief may be granted.

10 Given that plaintiff in essence merely has resubmitted a pleading that the Court already  
11 has held, with assigned reasons, is deficient, the Court will direct entry of final judgment.

12 IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice.

13 The Clerk of Court shall enter final judgment accordingly in favor of defendants and  
14 against plaintiff, dismissing this action without prejudice.

15 DATED: April 4, 2011.

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19 ROGER L. HUNT  
20 Chief United States District Judge  
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